

## **REMARKS**

Claims 1-46 are pending. Claims 1, 10, 22, 25, 29 and 39 have been amended to correct grammatical errors. Reconsideration of the claims based on the below comments is respectfully requested.

### **Abstract Objection**

The Abstract has been amended to be under 150 words. No new matter has been added. Thus, the objection to the abstract should be withdrawn.

### **35 U.S.C. § 102(b) Rejections**

#### **Independent Claims 1, 22 and 39**

The pending claims have three independent claims (claims 1, 22 and 39). Claim 1 recites, *inter alia*, (a) “a single calibration input element adapted to permit a user to input the calibration number, one digit at a time, associated with the test sensor”; (b) “a processor electronically coupled to the single calibration input element...”; and (c) a user display electronically coupled to the processor for displaying digits to be selected by a user inputting the calibration number....”

Claim 22 recites, *inter alia*, (a) “prompting a user, via a user display, to enter a digit of the calibration number”; (b) receiving input from the user, via a single calibration input element, indicative of the calibration number, one digit at a time”; and (c) “determining the analyte concentration in the sample in response to receiving the calibration number from the user and measuring the reaction.” Claim 39 recites, *inter alia*, (a) a single calibration input element adapted to permit the user to select digits for inputting a multiple-digit calibration number, one digit at a time”; and (b) “a processor electronically coupled to the single calibration input element and the user display, the processor prompting the user to input each of the digits of the calibration number, one at a time, the processor receiving the inputted calibration number and adjusting the at least one adjustable parameter of the concentration equation according to the stored adjustment corresponding to the inputted calibration number.”

The applied reference of U.S. Patent No. 5,856,195 to Charlton (“Charlton”) does not disclose, let alone teach or suggest, the above features in independent claims 1, 22 and 39. Rather, Charlton discloses “calibration codes assigned for use in the clinical value computations

to compensate for manufacturing variations between sensor lots are encoded upon a tag or label generally designated by 70 that is associated with a sensor package 50 of sensors 32, as shown in FIG. 4. The calibration encoded label 70 is inserted into the instrument with the package 50 of multiple sensors 32 which are stored in individual blisters 33 and read by associated sensor electronic circuitry before a sensor 32 is used.” Col. 4, lines 1-10 of Charlton (emphasis added). In summary, Charlton discloses that the calibration codes are located on the sensor package and read by the instrument. Independent claims 1, 22 and 39, on the other hand, have specific limitations discussed above generally associated with a single calibration input element adapted to permit a user to input the calibration number or an act of the user inputting the calibration number via the single calibration input element.

Therefore, independent claims 1, 22 and 39 are not anticipated by or rendered obvious over Charlton and are in a condition for allowance.

#### **Dependent Claims**

Claims 7-10 and 40 were objected to. The Examiner confirmed that page 1 of the Office Action at point #2 should read “Claims 1 and 39 are rejected.....”, not “Claims 1 and 7 are rejected”.

Dependent claims 2-21, 23-38 and 40-46, which depend either directly or indirectly on independent claim 1, 22 or 39, should also not be anticipated by or rendered obvious over Charlton for at least the same reasons as discussed above in connection with independent claims 1, 22 and 39. Thus, claims 2-21, 23-38 and 40-46 also should be in a condition for allowance.

**Conclusion**

The Applicants submit that the claims are in a condition for allowance and action toward that end is earnestly solicited. It is believed that no fees are due; however, should any additional fees be required (except for payment of the issue fee), the Commissioner is authorized to deduct the fees from Bayer Healthcare LLC Deposit Account No. 13-3375(MSE-#2672).

Respectfully submitted,

August 31, 2005

Date



Alice A. Brewer  
Reg. No. 32,888  
1884 Miles Avenue  
P.O. Box 40  
Elkhart, Indiana 46515-0040  
(574) 264-8394

ATTORNEY FOR APPLICANT

**CERTIFICATE OF MAILING**  
37 C.F.R. 1.8

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as First Class Mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313 on the date indicated below:

8/31/2005  
Date

  
Elizabeth Gettins